O.F. 66 (a)—14,824—17-12-21.

1922

Department of L.R and Sett

OFFICE of the Board of Revenue

STATION Madras

M/s No, 32
32

Dated 5/1/1923

B 4947

To whom sent		Date	Initial.
	Given for copying	12 Noon	
	Copied		
	Examined		
	Signed		
	Given for despatch		
	Despatched	8-1-23.	
	Indexed		
Pages in the file	To be destroyed on		

Sent by Regd. post 8/1

(SUBJECT.)

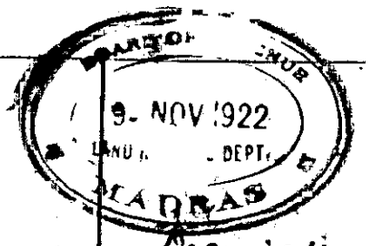
Escheat (S. Kanara) – Mangalore Tic Sirakkal and Adar Taluks – Fisherman Sannappa's property. Orders passed.

* Not to be filled in the case of permanent records.

B 4323

Application for declaring escheat the immoveable prop

South Kanara District.



Taluk.	Village	Description of property.		Area in acres	Assessment.		Estimated yearly rent Value after deducting assessment with Cesses.	Estimated market Value (Capitalised at 5%).	
1	2		3	4	5		6	7	
		114-4.	wet.	0.83	7	4 .			
		114-6	"	0.30	2	11 .			
Mangalore	Jeratkal	119-1	"	0.34	.	14 .			
		119-7	"	0.54	4	1 .			
		119-12	"	0.87	2	10 .			
		119-13	"	0.03	.	4 .	159 8 6	3190 10 .	
		119-15	"	1.07	10	11 .	Valuing		
		119-3	Dry	0.11	.	2 .	rice at		
		119-11	Garden	0.56	1	2 .	Rs 6/-		
							per mensa.		
	Addur	19-9A.	wet	0.33	2	. .			
		19-12	"	0.23	1	6 .			
		21-6	"	0.88	2	10 .			
		21-10	"	0.03	.	1 .			
		23-8	"	2.06	15	8 .	208 11 10		
		28-2	"	0 32	1	10 .	Valuing	4187 12 8	
		28-4	"	0.13	.	10 .	rice		
		58-13	"	0.12	.	12 .	as above.		
		23-7	Garden	0.57	1	2 .			
		55. 20	Dry	0.63	0	10 .			
		102-3	Dry	0.13		1 .			

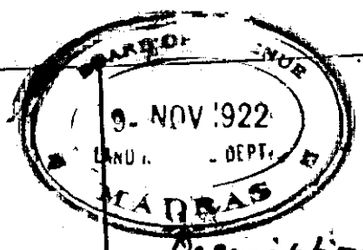
To,

The Secretary to the Board,
Land Revenue
Madras.

B 4323

Application for declaring escheat the immoveable prop

South Kanara Dishich.



Taluk.	Village	Description of property.		Area in acres	Assessment.		Estimated yearly rent Value after deducting assessment with Cesses.	Estimated market Value (capitalised at 5%).	
	2		3	4	5		6	7	
		114-4.	wet.	0.93	7	4			
		114-6	"	0.30	2	11			
		119-1	"	0.34		14			
angalore	Sarakkal	119-7	"	0.54	4	1			
		119-12	"	0.87	2	10	159 8 6	3190 10	
		119-13	"	0.03		4			
		119-15	"	1.07	10	11	Valuing rice at		
		119-3	Dry	0.11		2	Rs 6/-		
		119-11	Garden	0.56	1	2	per mensa.		
	Addur	19-9A.	wet	0.33	2				
		19-12	"	0.23	1	6			
		21-6	"	0.88	2	10			
		21-10	"	0.03		1			
		23-8	"	2.06	15	8	208 11 10		
		28-2	"	0.32	1	10	Valuing	4187 12 8	
		28-4	"	0.13		10	rice		
		58-13	"	0.12		12	as above.		
		23-7	Garden	0.57	1	2			
		55-20	Dry	0.63	0	10			
		102-3	Dry	0.13		1			

To,

The Secretary to the Board,
Land Revenue
Madras.

12 - Gano 2nd 3

Column (13):

The properties mentioned in column 3 belonged to one Sannappa alias Balappa, a fisherman governed by the Aliyasantana Law of succession. He had no heirs to succeed him after his death and therefore on 28-1-1895 he adopted one Srinivasa, a child of about two months old. On 14-11-02, he executed a will which was registered on 4-3-03. By this will he bequeathed all his immoveable property to his family deity, Sri Ammanavaru and appointed Parameshri, his first wife as manager -- till the adopted son, Srinivasa attained majority. During her management, Parameshri was to maintain the deceased's younger wife, Korapulu and look after the bringing up and the education of Srinivasa, and when he should come of age, she was to make over the management to him. Thereafter, Srinivasa was to maintain --- both the widows and perform all the religious ceremonies connected with the idol. All the three persons were to live together in the deceased's house and in the event of any differences arising between them which could not be settled by arbitration of castemen and any of the --- three leaving the house in consequence, he or she was to forfeit all claims on the property. This will forbids - partition and alienation by sale, gift, mortgage etc., and authorises the caste guru and the castemen of the -- village to take necessary proceedings to preserve the -- property in accordance with the testator's wishes., if -- the legatees should continue together and alienate the property in any manner. Shortly after the execution of this will and before it would be registered Sanappa died leaving two widows and the adopted minor boy. The --- adopted boy died in 1917 before attaining majority, -- Parameshri died in 1918 and Korapulu in 1920, after -- executing a will bequeathing all the property to one Nagappa and Channamma.

Combine ?

1st wife

2nd wife

2. The enquiry shows that the deceased has now

no heirs. However, no one except claimant No.1, has come forward as heir. This claimant is the natural brother of the adopted son of the deceased and is clearly not an heir to the property of the deceased. Nos. 2 and 3 claim the property on the strength of the will executed by Korapulu, which is obviously void, as the one executed by the deceased Sannappa does not give power to any one to alienate the property.

3. The Government Pleader, Mangalore is of opinion that in asmuch as the deceased's will contains no provision for the subsequent devolution and management of the property, it lapses to the crown on the death of the widows. He is, however, doubtful, whether the dedication in favour of the deity is bonafide. He suggests that this question may be left to be decided in the suit to be filed against Nagappa and Channamma who are in possession of the property and who refuse to surrender it to Government. Even if the dedication should be held to be valid, the annual expenditure on account of the religious ceremonies connected with the idol are reported to amount to only about Rs 116, while the annual income from the property is about Rs 368/- and the property itself is worth Rs 7,380/- nearly.

4. I request that the property may be declared escheat and the draft plaint submitted herewith approved.

5. The records as per list enclosed are submitted.

South Kanara Collector's Office,
Mangalore, 2nd November 1922.

For Collector.

In the court of the District Munsiff of Mangalore

----- Original Suit No.-- 1922

Between

The Secretary of State for India in council represented by the District Collector of South Kanara } Plaintiff

AND

1. B. Nagappa.
2 Channamma (minor) by guardian 1st Defendant. } Defendants

*****

Plaint under section 26, Order VII and Rule I of Act V of 1908.

The plaintiff above named states as follows:-

1. The plaintiff is the Secretary of State for India in Council represented by the District Collector of South Kanara. The address of ~~the~~ plaintiff for service of all notices and process.

2. The 1st defendant is the son, and the 2nd defendant is the daughter of Ummu alias Korapuloo and reside in --- Nireshwallya of Mangalore.

3 (i) That one Sannappa alias Balappa son of Sheshaya Subidar and residing in Kasba Bazzar village, Mangalore -- Town was the owner of the immoveable properties more particularly described in the schedule hereto attached. The -- said Sanappa, who was a fisherman by caste and governed by the Aliyasantana Law of inheritance died in 1902.

(ii) That on 14-11-1902, the said Sannappa executed a will which was registered after his death by which he --- purported to endow all his immoveable properties to his -- family goddess that he worshipped in his house. The said will further provided that in case of his dying before his adopted son Srinivasa attained the age of majority his, the testator's elder widow should manage the properties until the said minor Srinivasa attained age and then make over the management to him, that his two widows and the adopted

son should live together in peace in the house and carry on the worship and maintain themselves, without alienating the properties in any way.

(iii) The said minor Srinivasa however died in 1917 without attaining age and the elder widow of Sannappa died in 1918. The surviving widow of the testator Korapuloo died in the year 1920.

(iv) That before her death the said Korapulu, the younger widow of Sannappa executed a %will" under which she purports to bequeath to the defendants all her rights in the plaint properties, being the right of management of the property as a trustee of the family idol. The said Korapulu had no right to execute the will in question and the disposition thereunder in favour of the Defendants is null and void and they have acquired no right to the plaint property or to any management thereof.

(v) That though the will of the deceased Sannappa purports to create a disposition of the property in favour of the family idol, the real intention of the testator was to confer the beneficial interest in the properties on his adopted son Srinivasa and a right of maintenance so far as the two widows were concerned, the family worship having besides to be kept up from out of the income of the property. On a true construction of the will, the property was vested in Srinivasa burdened with the obligation of conducting the worship of the family idol. The said Srinivasa having died without leaving any heir who could inherit the property, the same becomes escheated to Government.

(vi) Further in the view that the aforesaid Srinivasa was adopted by the deceased Sannappa so as to constitute him a member of his family, and a successor to his properties the will of Sannappa is altogether invalid and inoperative, and the said Srinivasa who was the last holder of the property having died without leaving any heir in the family who could

succeed to his estate, the said property becomes escheated to Government.

(vii) Plaintiff is therefore entitled to recover possession of the property from the Defendants with --- mesne profits from the date of the death of the aforesaid Srinivasa.

(viii) The cause of action for the suit arose in September 1917, when the aforesaid Srinivasa died --- without heirs in his family.

4. The plaintiff's suit is valued at Rs for purposes of court fee and for jurisdiction.

5. Plaintiff prays for a decree and judgment for the following reliefs.

(i) Possession of the property described in the schedule valued at 5 times the assessment, the assessment being Rs 56-1-0 | Rs 280-5-0

(ii) Mesne profits at Rs per annum from up to. |

Rs.

(iii) For the costs of this to be paid by the --- defendants and for such other and further reliefs as the court thinks fit under the circumstances of the case.

South Kanara Collector's Office,
Mangalore, 1922. | Collector

4.11.22.

I (~~hereby~~) declare that all the facts stated above -- are true to the best of my knowledge and belief.

Mangalore,
1922 | Collector.

4.11.22 6.11.22

Description of the property.

Serial number for sub-District number	Sub-District	Taluk Mitgane Village	Survey number	Sub-Division No	Class	Extent Acres	Extent cents	Assessment Rs	Assessment a	Assessment P.	Remarks
I	Moolki	No 64	114	4	Nanja	-	83	1 7	4	-	
		Surthkal		6	do	-	30	2	11	-	Fields, buildings and tre
		Village	119	1	do	-	34	-	14	-	thereon.
		Mangalore	do	3	Punja	-	11	-	2	-	
		Taluk									
I	Moolki	No 64	119	11	Bagayet	-	26	1	2	-	
		Surthkal	do	12	Nanja	-	87	2	10	-	
		Village	do	13	do	-	3	-	4	-	
		Mangalore	do	7	do	-	34	4	1	-	
		Taluk	do	15	do	1	7	10	11	-	
II	Mangalore	No 126	19	9A	Nanja	-	33	2	-	-	
		Addoor	do	12	do	-	23	1	6	-	
		Village	21	6	do	-	88	2	10	-	
		Mangalore	do	10	do	-	3	-	1	-	
		Taluk	23	7	Bagayet	-	57	1	2	-	
			do	8	Nanja	2	6	13	8	-	
			28	4	do	-	13	-	10	-	
			do	2	do	-	32	1	10	-	
			55	20	Punja	-	63	-	10	-	
			58	13	Nanja	-	12	-	12	-	
			102	3	Dry	-	13	-	1	-	

9

List of records submitted to the Board with the escheat application dated 2-11-1922.

---

(1) Dis file No.79 R Rev 19 dated 15-11-19 of the Mangalore Taluk office.

(2) Dis file 3737 D/Rev.18 dated 31-12-18 of this office

(3) Dis file 77 D/Rev.21 dated 27-9-1921 of this office

(4) Dis file 1356 D/Rev.18 dated 11-5-18 of this office.

(5) One file of papers.

South Kanara Collector's Office,
Mangalore, 2nd November 1922.

Collector

4.11.22

10

Cocheal (S. Kanara) - Mangalore Tk
Surakkal & Adar Bhajes - Fisherman
Saunappa's prospty.

12-45
20/11

B 4323/22 - 9

Ref B 4323/22-17 18-11-22

The onus of proving that the dedication in favour of the deity was not bona fide is upon Govt. The Govt is requested to report what evidence there is to prove this..

p. 6 of 2. Para 3. iii of the plaint
The adoption of Srinivasa took place on 28/1/1895 when he is said to have been about two months old. By 1917 i.e at the time of his death he must have been about 23. It is incorrect therefore to say that he died without attaining age

of p/s 6-7 3. Para 3. vi. of the plaint - This paragraph is not clear. It seems to suggest that the testator Sonnappa had no authority either to adopt or to make a will

Draft 24/11 4. The draft plaint should be revised with reference to the remarks in paras 2 & 3 above.

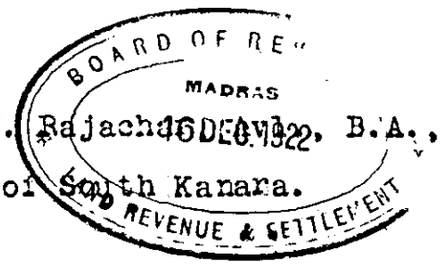
To the Govt of South Kanara with records to be returned
E, A, B, F, L. 17/11/22 CD

1897

11

B4947

Ref.on No.V-3-3759-22. South Kanara Collector's office,
Mangalore, 11th December 1922.



From

M.R.Rv. Rao Bahadur S.N.V. Rajachandra Aiyar, B.A.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue,
M a d r a s.

Sir,

Board's reference No.B.4323/22-1 dated 18th November - 1922.

Escheat (S.K.) - Mangalore Taluk - Surathkal and Addur villages - Fisherman Sannappa's property.

B10 of 1 C.S

Para 1 of the Board's reference:

The Government Pleader, Mangalore says that all that - he meant to say in para 3(5) of the plaint was that under --- the terms of the will the testator intended that his property should be enjoyed and managed by his adopted son, Srinivasa - burdened with the obligation of keeping up the worship of the family idol and that the recitals of the will by themselves - would afford the best evidence as to the true intention of -- the testator and as regards the nature of the bequests made - by him. His true intention as regards the nature of the --- bequest can be inferred from the fact that the will does not provide for the continuance of the service to the family idol after Srinivasa's death as well as from the fact that he ---- adopted in his Aliyasantana family a male child and not a --- female who was necessary for the perpetuation of his family.

2. Para 2 of the Board's reference:

This has been corrected as ordered by the Board.

3. Para 3 of the Board's reference:

The Government Pleader says that the contention raised

by him in this para is that if it were a fact that Srinivasa had been actually adopted by the deceased testator, then the testator had no right to make any will so as to affect the rights of the adoptee and that consequently the will is ---- invalid under the Aliyasantana Law. He suggests that the para as worded by him may be allowed to stand. If, however, the Board considers that it requires amendment, it may be done.

4. The records are returned.

For Collector.

12.12.22

M.D'S.12/12.

Escheat (S.Kanara) - Mangalore Tk - Surrakkal and Adur Villages - Fisherman Sannappa's property - Orders passed.

B4323/22
Ref B4323/22 & 7/8/11/22 } Q
B4947/22

cf pp 1-9.
cf p. 10
cf pp 11-12.

Res (Tis) 5.1.23.

The property in question is declared escheat and the draft-plaint as revised is approved.

To
The Coll. of S.Kanara
with 5 forms returned.

AS (Civil A.)
5/11

Escheat (S. Kanara) - Mangalore Tk - Surakkal & Addur Villages - Fisherman Sennappa's property - Declared - Plaint Approved.

B 4328/22 - G.

Res (this)

The property in question is declared escheat.

2. The draft plaint is approved.

To

20/k
13/11/22

The Coll.r of S. Kanara

Civil Rec. Rolls returned.

O.N.

The Coll. proposes that the property may be declared escheat & a suit filed by the Govt. for the recovery thereof in the light of the dedication to the family deity being found (by the Court) not to be binding. As Govt. are plaintiffs in the suit, it will be upon them to prove that it is not binding. The Coll. does not say how he proposes to prove this.

If the proposal to sue is accepted, then

para (iii) of the plaint seems to require
some alteration. In that it is stated
that the adopted son died in 1917
without attaining age. This appears
incorrect as on the date of adoption
which was on 25.1.95 he is shown to
have been two months old. If so, by 1917 / p 2. Cf.
he ought to have been about 23 yrs, that is,
past minority.

Para (iv) of the plaint is also not clear.
It seems to show that the testator,
Sannappa had no authority either to
adopt or make a will.

The Coll. may perhaps be asked on
the above points.

Yes
Yes
17.11.22

A.S. (Chs IA)

Draft. Submitd

17/11/22

A.S. (Chs IA) The Bds Ref B 4323/22-1 & 18/11/22. Cf. p. 10
8/
M1 The Coll's letter - B 4945 - Cf. pp 11-12.

For orders whether the property may be
declared escheat & the draft plaint approved.

20/12/22.

The draft plaint as ~~Granted~~ Corrected by the Collector may be approved

21.12.22 21.12.22 21.12.22

AS

Draft Subm.d — p.12.cf

5.1.23

4/1/23. 5/1/23